



1 APPEARANCES:

2 THE LAW OFFICES OF JAMES P. BATEMAN, LTD., by  
3 MR. JAMES P. BATEMAN and  
4 MS. REBECCA BATEMAN  
800 Hart Road, Suite 311  
Barrington, Illinois 60010  
Appearing for the Village of Barrington;

5  
6 MR. THOMAS J. HEALEY  
17641 South Ashland Avenue  
Homewood, Illinois 60430  
Appearing for EJ&E;

7  
8 MR. DANIEL POWERS  
527 East Capitol Avenue  
9 Springfield, Illinois 62701  
Appearing for Staff.

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21 SULLIVAN REPORTING COMPANY, by  
22 Tracy L. Overocker, CSR

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
Darren Monico	7	44,50	52	54	
Leo Morand	55	67,68	79		
Raymond Baker	70	75,77			

E X H I B I T S

<u>Petitioner's</u>	<u>For Identification</u>	<u>In Evidence</u>
No. 1 and Group No. 2		43

1           JUDGE KIRKLAND-MONTAQUE: By the power vested  
2     in me by the State of Illinois and the Illinois  
3     Commerce Commission, I now call Docket No. T10-0155  
4     for hearing. This is in the matter of the Village of  
5     Barrington as petitioner, versus the Elgin, Joliet &  
6     Eastern Railway Company and they have filed a  
7     petition for approval of the construction of a  
8     proposed pedestrian walkway or multi-use path as an  
9     at-grade crossing of the Elgin, Joliet & Eastern  
10    Railway Company's tracks in the Village of Barrington  
11    adjacent to the existing at-grade highway-rail  
12    crossing of Lake Zurich Road located in Barrington,  
13    Illinois.

14                   May I have appearances, please,  
15    starting with petitioner.

16           MR. BATEMAN: Your Honor, my name is James P.  
17    Bateman, B-a-t-e-m-a-n. I'm an attorney admitted and  
18    licensed to practice law in the State of Illinois.  
19    My business address is 800 Hart Road, Suite 311,  
20    Barrington, Illinois 60010. My telephone number is  
21    (847) 381-7840. Also for the record my e-mail  
22    address is BatemanLTD@aol.com. I appear this morning

1 on behalf of the Village of Barrington. I'm  
2 accompanied by my associate, Rebecca Bateman.

3 I have two witnesses with me this  
4 morning, Mr. Darren Monico, the assistant director of  
5 engineering and building for the Village of  
6 Barrington, and Mr. Leo Morand, of Gewalt, Hamilton &  
7 Associates Professional Engineering.

8 JUDGE KIRKLAND-MONTAQUE: Thank you.

9 For the Railroad.

10 MR. HEALEY: Good morning, your Honor. I'm  
11 Thomas Healey, H-e-a-l-e-y, I'm in-house counsel,  
12 dash, regulatory for Elgin, Joliet & Eastern Railway  
13 Company. My address is 17641 South Ashland Avenue,  
14 in Homewood, Illinois 60430.

15 With me today on behalf of the  
16 Railroad is Mr. Raymond Baker, I don't know his exact  
17 title, but he's in our Engineering Department and  
18 he's a good guy.

19 JUDGE KIRKLAND-MONTAQUE: I'll take your word  
20 for it.

21 Staff.

22 MR. POWERS: Daniel Powers, senior railroad

1 safety specialist, Illinois Commerce Commission,  
2 527 East Capitol Avenue, Springfield, Illinois 62701.  
3 My phone is (847) 516-0733.

4 JUDGE KIRKLAND-MONTAQUE: Okay. Can you please  
5 have all witnesses who you plan to testify stand and  
6 raise your right hands.

7 (Witnesses sworn.)

8 And I will turn the floor over to you,  
9 Mr. Bateman, to present the petition.

10 MR. BATEMAN: Your Honor, first, I wanted to  
11 make sure that the -- you have copies of both our  
12 original -- of our amended Exhibit 1, which was last  
13 revised 11/2/2010.

14 JUDGE KIRKLAND-MONTAQUE: I have the --  
15 attached to the amended petition.

16 MR. BATEMAN: Yes.

17 JUDGE KIRKLAND-MONTAQUE: So this would be it.

18 MR. BATEMAN: Would you like another?

19 JUDGE KIRKLAND-MONTAQUE: No, one is good.

20 MR. BATEMAN: At this time, your Honor, we  
21 would -- first, we would ask that the Court -- that  
22 you grant leave to the Village to file our amended

1 petition.

2 JUDGE KIRKLAND-MONTAQUE: Oh, yes, I did see  
3 that on file. Thank you. And --

4 MR. HEALEY: No objections.

5 JUDGE KIRKLAND-MONTAQUE: -- no objections to  
6 that, I will grant the Village leave to file its  
7 amended petition --

8 MR. BATEMAN: Thank you, your Honor.

9 JUDGE KIRKLAND-MONTAQUE: -- it will be  
10 accepted in the record.

11 MR. BATEMAN: Next, your Honor, the Village  
12 would like to call Darren Monico for direct  
13 examination as our first witness.

14 DARREN MONICO,  
15 called as a witness herein, having been previously  
16 duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY

19 MR. BATEMAN:

20 Q Mr. Monico, you've been sworn; correct?

21 A Yes.

22 Q Directing you -- would you please state

1     your name for the record and in doing so, also spell  
2     your last name.

3             A     Darren Monico, M-o-n-i-c-o.

4             Q     And what is your occupation?

5             A     I'm the assistant director of engineering  
6     and building for the Village of Barrington.

7             Q     And do you have any professional licenses?

8             A     I'm also a professional engineer licensed  
9     by the State of Illinois.

10            Q     And how long have you been employed by the  
11   Village?

12            A     It will be four years in January, so  
13   3 years, 8 months -- 10 months, whatever that works  
14   out to.

15            Q     Have you been authorized by the Village to  
16   appear this morning and testify in these proceedings  
17   on behalf of the Village?

18            A     Yes.

19            Q     And with regard to this case, were you the  
20   individual who actually signed the petition and  
21   amended petition on behalf of the Village of  
22   Barrington?



1           A     Yes.

2           Q     And I want to refer your attention to the  
3 amended petition.

4                     Does your signature appear on the  
5 amended petition?

6           A     I don't have it in front of me; but I have  
7 seen it, yes, and that is my signature.

8                     Yes, that is my signature.

9           Q     And to the best of your knowledge and  
10 belief, are the facts set forth in that petition true  
11 and correct?

12          A     Yes.

13          Q     And would you tell us -- I'm going to call  
14 you Darren --

15          A     Okay.

16                 JUDGE KIRKLAND-MONTAQUE:   That's fine.

17         BY MR. BATEMAN:

18          Q     -- our association is too constant and  
19 familiar to -- would you tell us a little bit about  
20 your background and experience in the engineering and  
21 municipal field.

22          A     Okay. I've been a civil engineer for

1 approximately 15 years. I have worked for private  
2 consulting companies for a home builder with land  
3 development and now for the Village of Barrington and  
4 also the Village of Lake Zurich prior to that. I  
5 have been involved in, I guess, just about every  
6 imaginable civil engineering case from roads to  
7 sidewalks to utilities and issues like that.

8 Q And you hold a degree from the University  
9 of Illinois?

10 A Yes.

11 Q In what field?

12 A My -- I have a Bachelor of Science,  
13 agricultural engineering that's where I started out,  
14 but I have been working as a civil engineer for the  
15 last 15 years.

16 Q And you're a licensed -- and how long have  
17 you -- approximately, how long have you been licensed  
18 as a professional engineer in the State --

19 A Approximately 8 years.

20 Q And would you describe for us where the  
21 Village of Barrington is located and give us a bit of  
22 background about the geography and demographics of

1 the Village.

2 A The Village of Barrington is a northwest  
3 suburb of Chicago. It's about 35 miles northwest of  
4 the City of Chicago, it's about a population of  
5 11,000. I'm not sure about demographics, I guess --

6 Q In terms of -- geographics is probably more  
7 accurate. It -- the Village is in two counties, is  
8 it not?

9 A Yes. It's located in Lake County and Cook  
10 County.

11 Q And the dividing line is Lake Cook Road  
12 also known as Main Street --

13 A Main Street in the Village, yes.

14 Q Where is the --

15 A The Lake Zurich Road crossing is located in  
16 Lake County on the north side of town.

17 Q And would you describe, generally, the area  
18 around the crossing.

19 A Okay. The neighborhood to the north of it  
20 is four subdivisions, Chippendale, Steeplechase,  
21 Flint Creek and Jewel Park. There's approximately  
22 230 homes. The lots are about a half-acre to an

1 acre, they're slightly larger lots.

2 North of that is the corporate  
3 boundary of the Village of Barrington, then there's a  
4 Fairhaven Subdivision located unincorporated just  
5 north of that approximately 55 to 100 homes of  
6 similar style as the ones in the neighborhood of  
7 Barrington.

8 To the south of it is Citizens Park  
9 and Lake Zurich Road travels through that and it goes  
10 to Route 14 through the Village of Barrington Library  
11 and various businesses and -- so southwest of that,  
12 some more residential areas.

13 Q Just to give a little history, Mr. Monico,  
14 relative to the Citizens Park property, which is  
15 immediately on the southeast side of the EJ&E right  
16 of way; is that correct?

17 A Yes.

18 Q That property which consists of  
19 approximately 55 acres; is that correct?

20 A I believe so.

21 Q That was originally the Jewel -- the  
22 Jewelty (phonetic) Company Headquarters, was it not?

1           A     Yes.

2           Q     And the building, that headquarters dated  
3     back to the -- I think 1920s or '30s and it was  
4     purchased by the Barrington Park District?

5           A     The Barrington Park District purchased it.  
6     In about 2005, they started their project for  
7     Citizens Park.

8           Q     And would you describe the -- kind of --  
9     the nature of the improvements that have been made  
10    and completed for Citizens Park.

11          A     It's a large park district facility.  There  
12    are -- there's a walking path through it.  There's  
13    several fields for sports there.  There's a small  
14    band shell, a very large tree house for people  
15    that -- a handicapped-accessible tree house for  
16    people to use adjacent to Cuba Marsh which also has a  
17    bike path that goes from Citizens Park northeast into  
18    Cuba Marsh.

19          Q     Cuba Marsh is a preserve --

20          A     Yes.

21          Q     -- owned and developed by the --

22          A     The Lake County Forest Preserve, yes.

1           Q     And that's a large track that extends all  
2     the way to, I think, Ela Road.

3           A     Mm-hmm.  Ela and Cuba.

4           Q     And it has -- the Cuba Marsh -- the holding  
5     of the -- as developed by the Lake County Forest  
6     Preserve has a series of bike and pedestrian paths in  
7     it as well?

8           A     Yes.  It's a crushed gravel path for  
9     pedestrians and bicyclists.

10          Q     And do the -- part of the plan cooperative  
11     effort of the Forest Preserve and Barrington Park  
12     District was, in fact, to connect the Cuba Marsh  
13     trails and the Citizens Park trails; is that correct?

14          A     Yes.  They completed that in 2008.

15          Q     And those -- so the Cuba Marsh trails  
16     connect to the Citizens Park trails and then the  
17     Citizens Park trails basically connect along Lake  
18     Zurich Road --

19          A     Mm-hmm.

20          Q     -- south of the EJ&E tracks to Barrington  
21     public sidewalks; is that correct?

22          A     Yes, that's correct.

1           Q     Could you explain why the Village is -- has  
2 brought and is prosecuting this petition today.

3           A     Well, the Village would like to have a  
4 sidewalk crossing on this -- or on Lake Zurich  
5 Road -- or the crossing for the railroad at Lake  
6 Zurich Road so that we can get -- the pedestrians  
7 will be allowed -- pedestrians and bicyclists will  
8 come from the neighbors to the north to Citizens  
9 Park, the library, Cuba Marsh and areas like that.  
10 The current configuration is a relatively narrow road  
11 when it crosses the railroad, so pedestrians are  
12 essentially forced -- pedestrians and bicyclists, to  
13 kind of squeeze on the shoulder and almost --  
14 entering the travel lane of the road and it's  
15 essentially not a very safe crossing.

16          Q     At the present time, the Village has --  
17 does maintain sidewalks along -- a public sidewalk  
18 along the east side of Lake Zurich Road north of this  
19 at-grade crossing; is that correct?

20          A     Yes. There's a sidewalk on the east side.  
21 It goes from the Turtle Creek business starting at  
22 the north edge of the railroad property all the way

1 north to the Flint Creek Estates Subdivision, which  
2 is on the east side of Lake Zurich Road.

3 Q And as people are walking south along the  
4 east side of Lake Zurich Road on that sidewalk, once  
5 they -- based on your observations of the situation,  
6 once they get to the driveway entrance and exit to  
7 the Turtle Creek office building, what do they do at  
8 that point?

9 A Since the sidewalk essentially ends before  
10 the railroad, some of the pedestrians and bicyclists  
11 that are on the sidewalk actually -- at the entrance  
12 to the Turtle Creek business park there, they enter  
13 the street and then head south for an extended  
14 distance along Lake Zurich Road --

15 Q And at that --

16 A -- across the railroad.

17 Q At that point, they're essentially -- is  
18 that part of Lake Zurich Road intended for -- they're  
19 not on the shoulder, they're in the -- basically, the  
20 paved lane of traffic?

21 A Yes.

22 Q And they continue that, typically, all the



1 way through the at-grade road crossing, do they not?

2 A Yes.

3 Q And they utilize the present rubberized

4 road crossing to actually cross the tracks,

5 typically --

6 A Yes.

7 Q -- unless they walk across the tracks at

8 that location?

9 A That is correct.

10 Q And then they -- on the south side of the

11 highway crossing, there's actually a path that's been

12 worn by the pedestrians on that side of the tracks,

13 is there not?

14 A That's correct.

15 Q And where does that path begin and end?

16 A The path that the pedestrians get to is the

17 start of the Citizens Park trail that essentially

18 goes around the whole development and also to the

19 north, it connects to the Cuba Marsh trails.

20 Q And that -- so they're basically

21 crossing -- on this path, they're crossing the EJ&E

22 right of way --

1           A     Mm-hmm.

2           Q     -- and then they're crossing the Lake  
3     Zurich Road on approved right of way?

4           A     Yes.

5           Q     And re- -- to reach the public sidewalk  
6     that is within the Lake Zurich Road right of way  
7     along Citizens Park?

8           A     That is correct.

9           Q     Does the Village have safety concerns about  
10    the present usage of -- by pedestrians and bicyclists  
11    at this location?

12          A     Yes.  It's -- again, it's a very narrow  
13    crossing and the pedestrian, cyclists and cars kind  
14    of squeeze in in the same area.

15          Q     Has the Village considered the convenience  
16    of the public and public safety in making this  
17    proposal and bringing its petition today?

18          A     Yes.

19          Q     How do you view that public safety and  
20    convenience will be improved and supported by the  
21    proposed crossing?

22          A     Well, in my opinion, separating the

1     pedestrians and cyclists from the surface of the  
2     roadway will be a safety benefit so that the cyclists  
3     and pedestrians are not stuck on the same area with  
4     the road.

5           Q     Could you describe the existing conditions  
6     in terms of safety equipment at the existing road  
7     at-grade crossing?

8           A     There are the gates and, I guess, alarms or  
9     whistles, whatever you call them, for the railroad --  
10    operating signals with gates for the pedestrian --  
11    I'm sorry -- for the vehicles.

12          Q     There is -- so there's audible signals?

13          A     Yes.

14          Q     There are cross -- what you call --  
15    railroad crossbuck signs?

16          A     Yes, on the ground for -- on the roadway  
17    and then there are crossing gates for the vehicles.

18          Q     And on the crossbucks, there are flashing  
19    red lights as well?

20          A     Yes.

21          Q     And then there are vehicle gates --

22          A     Yes.

1           Q     -- that are automatic to control vehicular  
2     traffic?

3           A     Yes, that's correct.

4           Q     I'm going to show you a document which has  
5     previously been marked Amended -- well, it's marked  
6     Exhibit 1, but it is the Amended Exhibit 1, which was  
7     last revised 11/2/2010.

8                     Could you describe in your own words  
9     using this to illustrate your testimony as you need  
10    to for the Judge the proposed improvement.

11          A     Okay. Well, this is an engineering plan by  
12    Gewalt Hamilton.

13          Q     And they directed it -- they prepared that  
14    at the Village's request, did they not?

15          A     We directed them to prepare that. It is  
16    essentially the area that was surveyed and this is  
17    the actual field conditions, this is the Lake Zurich  
18    Road right of way, this is the actual Lake Zurich  
19    Road, it shows the railroad crossing. It shows a  
20    proposed sidewalk, you know, that connects to the  
21    Citizen's Park path going through the railroad right  
22    of way and connecting to the path in the Lake Zurich

1 Road right of way north of the tracks.

2 Q And as part of this improvement, the  
3 Village will also have to construct a sidewalk to  
4 connect to the -- to the crossing proper; is that  
5 correct?

6 A Yes.

7 Q And how much sidewalk is required for the  
8 Village to -- or its contractor to construct, if you  
9 have an estimate?

10 A I didn't prepare that. There's  
11 approximately about 60 feet on the south side and  
12 maybe 40 to 50 feet on the north side that would  
13 connect to the railroad proper.

14 Q And --

15 A Jim, could I make a note on the safety? I  
16 should have mentioned earlier that several residents  
17 continue to call me, in particular, and express their  
18 concern with the safety of the pedestrians -- mostly  
19 the pedestrians with strollers that attempt to use  
20 this crossing. They are concerned that when they  
21 step on the road, they're essentially in the travel  
22 lane of the cars and they have to kind of squeeze

1 through with their strollers and issues like that.

2 Q And those are generally Village of  
3 Barrington residents that would either be in the  
4 Flint Creek Subdivision to the northwest of the  
5 tracks?

6 A Mm-hmm. The majority come from Jewel Park  
7 residents, which is the neighborhood right here.  
8 There are two, in particular, that call me many times  
9 and then I get kind of random ones from neighborhood  
10 residents, you know, since I've been there. So...

11 Q Directing your attention to what's been  
12 previously submitted as the file, rather, it's  
13 Petitioner's Group Exhibit 2. You have a copy?

14 A Yes, I have it here.

15 Q Directing your attention to Exhibit --  
16 what's been marked Petitioner's Exhibit 2.1. Do you  
17 recognize that document?

18 A Yes. That is an aerial photo of the  
19 crossing in question.

20 Q And this was taken from the Lake County Tax  
21 Map Web site; is that correct?

22 A Yes.

1           Q     And does it -- does it truly and accurately  
2     reflect the conditions as they now exist at this  
3     crossing?

4           A     Yes, I believe so.

5           Q     And does it -- have you viewed the site  
6     distances at the location of the proposed crosswalk  
7     and multi-use path crossing?

8           A     Yes. The sight lines are very good. The  
9     railroad is -- if you stand by the railroad itself,  
10    you can see a very large distance.

11          Q     It's pretty much limited by limits of the  
12    human eye, so to speak, in both directions, is it  
13    not?

14          A     Yes.

15          Q     And the only -- the only structures at all  
16    in the vicinity of the road at the existing road  
17    at-grade crossing which -- where the proposed  
18    crosswalk crossing would be are a control box, an  
19    existing control box --

20          A     Yes, there is --

21          Q     -- a walk-in-type control box?

22          A     A control box on the west side of the

1 crossing on the north side of the tracks.

2 Q And as well as the crossbuck signs and  
3 gates, obviously?

4 A Yes.

5 Q But otherwise, there aren't any  
6 obstructions that would affect sight distances in the  
7 area?

8 A That is correct.

9 Q Nor is there any -- really any vegetation  
10 that encroaches in the right of way to speak of?

11 A That's correct.

12 Q I'm directing you to what's been marked  
13 Petitioner's Exhibit 2.2, the -- ICC grade crossing  
14 inventory. And this consists of a series of  
15 photographs of the -- of the grade -- existing grade  
16 crossing, does it not?

17 A Yes.

18 Q And do those -- do those truly -- do those  
19 photographs truly and accurately represent the  
20 general conditions out there other than the  
21 existence, obviously, of snow on the ground and the  
22 cargo container that's no longer there?



1           A     That's correct.

2           Q     And do those give an accurate depiction of  
3     the sight distances as one looks north, northeast and  
4     southwest?

5           A     Yes.  It shows there's very little to  
6     obstruct the sight.

7           Q     And it also indicates there are no --

8           A     Structures.

9           Q     -- structures or any obstructions to the  
10    sight distances in the area?

11          A     That's correct.

12          Q     Directing your attention to what's been  
13    marked Petitioner's Exhibit 2.3.  This is a printout  
14    of an aerial map from the - from the ICC grade  
15    crossing inventory, is it not?

16          A     That is correct.

17          Q     As an aerial map, does it truly and  
18    accurately depict the existing conditions at the  
19    intersection other than the existence of the cargo  
20    container north of -- north of the tracks and east of  
21    Lake Zurich Road, which has now been removed?

22          A     Yes, that's correct.

1           Q     And, again, does this depict the -- that  
2     there are good sight distances without the  
3     encroachment of vegetation or other blocking  
4     structures at this grade crossing?

5           A     Yes, that's correct.

6           Q     I'm going to direct your attention to  
7     what's been marked as a group, Petitioner's Exhibit  
8     2.4 through 2.14 of the Village's Group Exhibit 2.

9                     Are those printouts of photographs  
10    from the ICC grade crossing inventory Web site?

11          A     Yes.

12          Q     And do they accurately depict the  
13    conditions at this grade crossing and at the location  
14    of the proposed crosswalk at-grade crossing but for  
15    the snow on the ground and the blue cargo container  
16    shown in some of those photographs which has now been  
17    removed?

18          A     Yes.

19          Q     Directing your attention to what's been  
20    marked Petitioner's Exhibit 2.16 for identification  
21    purposes. Would you identify this document,  
22    Mr. Monico.

1           A     This is the Village of Barrington's zoning  
2     map.  It shows the entire corporate limits of the  
3     Village and what each area is zoned.

4           Q     In the top center of the -- of the zoning  
5     map, one can see the EJ&E tracks and right of way  
6     cutting in from a little right of center from the  
7     northeast and going in a southwest direction; is that  
8     correct?

9           A     Yes.

10          Q     And the large green area with the  
11     crosshatched lines that is immediately -- on the  
12     south side of the EJ&E right of way, would you  
13     identify that parcel.

14          A     That is the Village of Barrington Park  
15     District's Citizens Park.

16          Q     Okay.  And then the blue -- the large blue  
17     parcel -- dark blue or royal blue parcel immediately  
18     south of the Citizens Park parcel, what is that  
19     developed with?

20          A     The dark blue is the Pepper Construction  
21     and the Hospice of Northeastern Illinois.  The light  
22     blue one to the west of that is the Barrington

1 Library.

2 Q Thank you.

3 And then as you go -- looking at the  
4 north side of the tracks, the yellow parc- --  
5 parcel -- the parcel in yellow on the east side of  
6 Lake Zurich Road, what subdivision is that?

7 A That's Flint Creek Estates.

8 Q And then on the west side of Lake Zurich  
9 Road opposite Flint Creek Estates, there are actually  
10 three or four different subdivisions?

11 A Three subdivisions. The kind of  
12 tannish-beige on the bottom is Jewel Park; the green  
13 piece in the middle would be the retention pond for  
14 the Chippendale Subdivision, which is the one in the  
15 yellow; and to the west the green is Steeplechase  
16 Subdivision.

17 Q And all the residents of those residential  
18 subdivisions on both sides of Lake Zurich Road would  
19 tend to utilize a Lake Zurich Road bike route or  
20 sidewalk route down to reach both Citizens Park and  
21 the Barrington area library; is that correct?

22 A Yes. The other option is Route 59, which

1 is a heavily traveled street.

2 Q And while there's sidewalk on both sides of  
3 59, it's -- the traffic is quite congested with heavy  
4 truck traffic along 59 north and south; correct?

5 A Yes; but then on the south side, there is  
6 no sidewalk on Route 14 to reach all the way to the  
7 library.

8 Q Okay. The -- does this -- Petitioner's  
9 Exhibit 2.16 represent a true and accurate copy of  
10 the official Village of Barrington zoning map as is  
11 now in effect?

12 A Yes.

13 Q And it was most recently published  
14 March 31st of this year; is that correct?

15 A Yes. I think -- can I rephrase something?  
16 I think I misspoke about the sidewalk all the way  
17 along 14. There actually is sidewalk, there's no  
18 crosswalk on the east side of the intersection, so  
19 people would kind of have to do a circular route to  
20 get there. So I didn't mean to say that.

21 Q What intersection?

22 A Route 14 and 59. There's not a crosswalk

1 on the east side. So I earlier said there is no  
2 sidewalk to get to the library, essentially there is.  
3 I misspoke when I said that.

4 Q So if I was -- if I was a resident of Jewel  
5 Park, which is on the east side of 59 --

6 A Yes.

7 Q -- I would be able to exit from Jewel Park  
8 and walk on the sidewalk to --

9 A You'd have to --

10 Q -- to 14?

11 A -- walk down to the -- Route 14  
12 intersection and walk west to cross the intersection,  
13 walk south and then walk back east --

14 Q Right.

15 A -- because we don't have a crosswalk there.

16 Q Right. And it's fair to say that that's  
17 a -- one of the busiest intersections in the Village  
18 and the traffic is fairly intimidating?

19 A Yes. Those are some of our highest average  
20 daily counts in traffic, Route 14 is the highest.

21 Q In looking at this project and developing  
22 it, have you had occasion to investigate what the

1 traffic counts are along Lake Zurich Road?

2 A I don't remember them offhand. I believe  
3 we went over that yesterday.

4 Q That's all right. We'll cover that with  
5 Mr. Morand.

6 Okay. Do you have a professional  
7 opinion based upon your engineering experience and  
8 your experience in the municipal field, Mr. Monico,  
9 as to whether or not the proposed sidewalk will  
10 preserve or promote public safety?

11 A Yes. I believe it will be a safety  
12 improvement to separate the pedestrians and cyclists  
13 from the vehicular traffic on that crossing.

14 Q And do you have an opinion as to whether or  
15 not it will also be convenient and a desirable  
16 improvement for residents of the Barrington area to  
17 have such a crosswalk at-grade improvement?

18 A Yes, I do.

19 Q And what's your opinion?

20 A I believe that having a safer pedestrian  
21 and bicyclists route there will encourage people to  
22 use that and to reach the park and Cuba Marsh instead

1 of using the vehicular lanes for radioing.

2 Q So you think if it -- if such a crosswalk  
3 at-grade crossing is constructed, they will, given  
4 the opportunity, choose to use the safer crossing?

5 A Yes.

6 Q And that's consistent with the contact --  
7 multiple contacts you've had from Barrington area  
8 residents relative to the need for such improvements?

9 A That is correct.

10 Q Directing your attention to what's  
11 previously been marked Exhibit -- the Petitioner's  
12 Exhibit 2.17. Is this a copy of the bikeways map  
13 that is posted on the Village of Barrington's Web  
14 site?

15 A Yes, that is correct.

16 Q And as you look at the map, does it  
17 illustrate -- the area that's indicated as the  
18 County's Forest Preserve, is that what -- is that the  
19 area you previously referred to as Cuba Marsh?

20 A Yes, that's correct.

21 Q And the blue paths -- or bike paths through  
22 that are actually pedestrian and bike paths that were



1 constructed by the Lake County Forest Preserve; is  
2 that correct?

3 A Yes, that's correct.

4 Q And then where the green -- the limits of  
5 the Cuba Marsh are delineated in the light green; in  
6 the area where the -- basically the blue bike path  
7 departs and goes to the red line, which is Lake  
8 Zurich Road, that's a bike path which is -- and a  
9 pedestrian path that's been constructed within  
10 Citizens Park; is that correct?

11 A That's correct.

12 Q And by a cooperative arrangement between  
13 the Lake County Forest Preserve District and the  
14 Barrington Park District, they have connected their  
15 two path systems -- their respective path systems,  
16 have they not?

17 A That's correct.

18 Q And both of those path systems lead to the  
19 public sidewalk on the south side of the EJ&E tracks  
20 along Lake Zurich Road?

21 A That's correct.

22 Q And this -- this map also illustrates, does

1     it not, that there's a -- when it says "bike route,"  
2     that doesn't mean that there's a dedicated bike lane,  
3     it simply means that that's a common bike -- a route  
4     of travel?

5           A     Yes, that's correct.

6           Q     And the red lines on this -- on this map  
7     illustrate that a common bicyclist route of travel is  
8     along Providence Road from 59 east to Lake Zurich  
9     Road and south on Lake Zurich Road basically to the  
10    public sidewalk along Lake Zurich Road?

11          A     Yes, that's correct.

12          Q     From your own personal experience, the  
13    Barrington area is a cyclist destination, is it not?

14          A     Yes.

15          Q     Is -- do you know if, in fact -- is Lake  
16    Zurich Road one of the roads that is sometimes  
17    traveled by cyclists who come to the Barrington area  
18    to enjoy the countryside?

19          A     Yes. People usually use that to get into  
20    the town instead of traveling on the well-traveled  
21    roads of Route 59 or something similar to that.

22          Q     Directing your attention to Petitioner's

1 Exhibit 2.18. It's a printout from the -- is it not,  
2 from the Barrington Park District Web site related to  
3 Citizens Park?

4 A That's correct.

5 Q And does it -- it's basically a series of  
6 graphics, photographs, that depict the inner  
7 relationship with the Lake County Forest Preserve  
8 District holding at Cuba Marsh with the Barrington  
9 Park District, is it not?

10 A That's correct.

11 Q And, in fact, Page 3 of that exhibit shows  
12 that a trail -- it shows a trail under construction,  
13 that's basically the trail in Citizens Park that  
14 connects Citizens Park to Cuba Marsh, is it not?

15 A That's correct. It's just on the east of  
16 the railroad. You can see the telephone poles in the  
17 distance that are right on the right of way line of  
18 the railroad, I believe.

19 Q And Page 4 is depicting, actually, the foot  
20 bridge that crosses, I think, the creek or water --  
21 body of water that's within the Citizens Park --  
22 Jewel Pond, actually, I'm sorry.

1           A     That is Jewel Pond.  It's right on the --  
2     this picture shows -- the path to the left side of  
3     the picture is where the bridge actually is.  This is  
4     also a continuation of the path that goes from  
5     Citizens Park to Cuba Marsh.

6           Q     And I think the key photograph in that  
7     package for -- which has been designated as  
8     Petitioner's Exhibit 2.18 is on Page 5.  That's an  
9     aerial map, is it not, of Citizens Park and this  
10    proposed -- the location of this proposed crosswalk  
11    at-grade crossing?

12          A     Yes, that's correct, right on the east side  
13    you see the railroad crossing at Lake Zurich Road.  
14    You see the big expansive field in the middle and to  
15    the south of that is Jewel Pond and this doesn't show  
16    the new connection that would be right on the --  
17    essentially the very southern part of that path, that  
18    may be hidden by the trees.

19          Q     Right now in the -- kind of what I describe  
20    is the lower left corner of this aerial photograph,  
21    the green -- the green-colored area, the bright  
22    green-colored area that's essentially -- and the dark

1 areas, that's Jewel Pond, is it not?

2 A That's correct.

3 Q And the Forest Preserve path crosses -- the  
4 connection between the Cuba Marsh path and the  
5 Citizens Park path crosses Jewel Pond and now  
6 connects to the curving part of the Citizen's Park  
7 path that is basically just to the right lower center  
8 of this photograph?

9 A That's correct.

10 Q And along the -- just to the right of  
11 the -- this Citizens Park path is the EJ&E tracks and  
12 EJ&E right of way; is that correct?

13 A That's correct.

14 Q And at -- you can also see in this  
15 photograph clearly depicted the Lake -- the curved  
16 path of Lake Zurich Road really from Route 14 all the  
17 way to the -- its existing at-grade crossing with the  
18 EJ&E; is that correct?

19 A Yes.

20 Q And, basically, it also depicts the  
21 sidewalks -- although they're hard to see here, the  
22 sidewalks along Lake Zurich Road which are on the --

1 I guess you'd describe them along the east and south  
2 sides of Lake Zurich Road?

3 A That's correct, they are an asphalt path,  
4 so they're a little harder to see, they're wider for  
5 their accommodation of pedestrians and bicyclists.

6 Q And does this -- do the photographs in this  
7 package accurately depict the existing conditions of  
8 Citizens Park and its connection with Cuba Marsh and  
9 its relationship to this at-grade crossing?

10 A Yes.

11 Q And the only difference between these  
12 photographs and the existing condition, would that be  
13 the fact that the connection has now been constructed  
14 as shown in one of the earlier photographs in this  
15 group between Cuba Marsh and the Citizens Park trail?

16 A Yes. If this picture was taken in '07, the  
17 path wasn't completed by then.

18 Q Directing your attention to what's been  
19 marked in the Village's Group Exhibit 2, Petitioner's  
20 Exhibit 2.19. What is that document?

21 A It's a Citizens Park trail map. It shows  
22 the trails located inside the Citizens Park facility.

1 It does not show the connection on the north part to  
2 the -- Cuba Marsh.

3 Q Basically, the connection would be near  
4 where that -- the parking lot is near the EJ&E right  
5 of way and the connection goes along the north side  
6 of the parking lot, does it not, to the sidewalk  
7 along Lake Zurich Road?

8 A That's correct.

9 Q So now -- that connection has been built at  
10 that location?

11 A Yes.

12 Q Finally, directing your attention to the  
13 Petitioner's Exhibit 2.20, the Lake County Forest  
14 Preserve District document. Is this -- what is this  
15 document?

16 A This is a document of the trails located  
17 inside Cuba Marsh and it does show the connection to  
18 Citizens Park on the west side of the map.

19 Q And does -- in your view, does this  
20 accurately portray the connection between Cuba Marsh  
21 trails and the Citizens Park trails?

22 A Yes.

1           Q     Mr. Monico, directing your attention again  
2     to the Village's amended petition filed -- signed by  
3     you and filed on behalf of the Village in this  
4     matter.

5                     Do you have that document in front  
6     you, sir?

7           A     Yes, I do.

8           Q     Am I correct that the Village, by filing  
9     this amended petition, will reimburse the EJ&E  
10    Railway for any costs incurred for the engineering  
11    and installation of the proposed sidewalk?

12          A     Yes, that's correct.

13          Q     And will the Village also enter into such  
14    contractual agreements for the construction of the  
15    proposed crosswalk and any necessary license  
16    agreements as well to allow the proposed construction  
17    of this crosswalk?

18          A     Yes, that's correct.

19          Q     Have you, in consultation with Gewalt  
20    Hamilton or otherwise, secured estimates for the  
21    proposed -- secured general estimates for the costs  
22    of the proposed crosswalk?



1           A     Yes, we have.

2           Q     And is the Village financially capable of  
3 meeting commitments to the EJ&E for the related  
4 construction project?

5           A     Yes.

6           Q     Has the Village authorized Gewalt Hamilton  
7 as its consulting engineering on this project to work  
8 with you and the Railroad to work out the particulars  
9 and details of the proposed pedestrian and multi-use  
10 crosswalk and its construction?

11          A     Yes.

12          Q     Is the Village prepared to comply with all  
13 the rules and regulations of the Illinois Commerce  
14 Commission and all other applicable federal and state  
15 standards for the installation and maintenance of the  
16 proposed crosswalk and multi-use path?

17          A     Yes.

18          Q     Specifically, as to ADA standards and the  
19 Illinois Accessibility Code, will the proposed  
20 crosswalk comply with such standards?

21          A     Yes.

22          Q     In your opinion, is compliance with the ADA

1 standards an important part of this proposal?

2 A Yes.

3 Q Is it fair to say that the tree house --  
4 the Pepper Family tree house at Citizens Park is a  
5 destination point for -- of persons -- many people,  
6 including persons with disabilities?

7 A Yes. They bring a lot of -- the Park  
8 District brings a lot of school children from various  
9 schools there for activities and it's won various  
10 awards for being the only tree --  
11 handicapped-accessible tree house.

12 Q In addition, immediately adjacent to  
13 Citizens Park is the Pepper Family Hospice Facility  
14 of Northeastern Illinois, is it not?

15 A Yes, that was recently completed.

16 Q And that also brings a great deal of  
17 traffic into the Citizens Park and surrounding  
18 sidewalks, pedestrian traffic, traffic usage by  
19 persons with disabilities as well, does it not?

20 A Yes.

21 Q In your opinion, are both Cuba -- the Cuba  
22 Marsh trails and Citizens Park trails ADA compliant?

1           A     I believe so.

2           Q     And the -- and the Village -- does the  
3 Village have every intention of -- that the final  
4 design and installation of the proposed crosswalk and  
5 multi-use path will also be ADA compliant?

6           A     Yes.

7           MR. BATEMAN:   At this time, I would ask -- I  
8 would request and move for admission of the Village's  
9 Amended Exhibits 1 and all of the exhibits which are  
10 part of the Village's Group Exhibit 2, which consists  
11 of Exhibit 2.1 through 2.20 inclusive.

12          JUDGE KIRKLAND-MONTAQUE:   Any objection?

13          MR. HEALEY:   We have no objection.

14          MR. POWERS:   No objections.

15          JUDGE KIRKLAND-MONTAQUE:   Petitioner's Amended  
16 Exhibit 1 and Group Exhibit 2 are hereby admitted  
17 into evidence.

18                       (Whereupon, Petitioner's Amended  
19                       Exhibit No. 1 and  
20                       Group Exhibit No. 2  
21                       were admitted into evidence  
22                       as of this date.)

1 MR. BATEMAN: Thank you, your Honor.

2 At this time, the Village would tender  
3 Mr. Monico to Mr. Healey for cross-examination.

4 CROSS-EXAMINATION

5 BY

6 MR. HEALEY:

7 Q Mr. Monico, do you know if the Village has  
8 performed any pedestrian studies to determine how  
9 many people use the crossing over the EJ&E tracks at  
10 Lake Zurich Road?

11 A Not that I'm aware of.

12 Q Has there been any study to determine the  
13 amount of bicycle usage or strollers or any kind of  
14 usage study at all, to your knowledge?

15 A No.

16 Q Are you aware of whether there's any  
17 accident history at the crossing involving  
18 pedestrians, bicyclists, et cetera?

19 A No, I'm not; but we can get that from the  
20 police department if there are any.

21 Q Can you tell us if the Village looked at  
22 any alternatives to an at-grade sidewalk crossing, an

1 overpass pedestrian bridge, et cetera, over the  
2 railroad tracks?

3 A Not that I'm aware of.

4 Q The signage that the Village has proposed  
5 for the sidewalk, it looks like from this engineering  
6 drawing, which I think is -- was this Exhibit 1, Jim?

7 MR. BATEMAN: Yes, Amended --

8 MR. HEALEY: Amended.

9 MR. BATEMAN: Amended Exhibit 1 is properly --  
10 it's labeled Exhibit 1, but it's Amended Exhibit 1  
11 where it bears the date 11/2/2010.

12 BY MR. HEALEY:

13 Q It's going to consist of a stop sign and  
14 standard Look for Train with arrows on either side;  
15 right?

16 A Yes.

17 Q I'm trying to see -- I was looking at the  
18 exhibit earlier. It looks like the location for the  
19 crossing gate arm is located on the north side of  
20 that exhibit, there is a dot that may designate it on  
21 the south side, but it's not labeled as being such.  
22 Can you take a look at your exhibit there and can you

1     indicate for us where the crossing gate mechanism is  
2     located?

3           A     The crossing gate mechanisms on the south  
4     side of the tracks?

5           Q     Yes, sir.

6           A     You're right, it is labeled on the north.

7           Q     And it appears to be designated with a dot?

8           A     Yeah, I believe that would be that dot if  
9     we're looking at the same one here.

10          JUDGE KIRKLAND-MONTAQUE:   I'm sorry, can you  
11     show me again.

12          THE WITNESS:   I'm sorry.   I believe this is  
13     this one right here.

14     BY MR. HEALEY:

15          Q     The point of the inquiry simply being the  
16     sidewalk will be located outside of the existing gate  
17     mechanism?

18          A     Yes.   We did look into putting it -- the  
19     sidewalk on the inside, but we did not believe there  
20     was enough room for that and that would still put the  
21     pedestrians adjacent to the road.   We felt it would  
22     be safer to separate them from the road.

1           Q     Will the sidewalk project require the  
2     relocation of the existing gate mechanism?

3           A     No.

4           Q     I know you had a conversation with  
5     Mr. Baker just before the hearing on the width of the  
6     sidewalk and I apologize, I wish I could have been a  
7     part of it; but has there been a discussion about  
8     widening the actual width of the proposed sidewalk?

9           A     Sure. He mentioned that just before we got  
10    here and I believe the Village is going to work out,  
11    you know, whatever is necessary to facilitate that,  
12    especially if it's a safety device for that.

13          Q     And that discussion was driven by concerns  
14    about the 5-foot width and people passing and  
15    strollers and bikes and -- et cetera?

16          A     Correct.

17          Q     Are you aware of whether the sidewalk is  
18    going to require any modification to the existing  
19    roadway grade crossing surfaces?

20          A     I don't believe so. It's going to stay  
21    separated from that.

22          Q     All right. We may have to have Mr. Baker

1     testify a little bit about that.  If there were  
2     modifications required to the existing roadway grade  
3     crossing services, is it the Village's expectation  
4     that they would pay for those as part of the sidewalk  
5     project?

6           A     I'm not sure what that would require, but I  
7     think we'd be certainly willing to work with the -- I  
8     mean, all the parties involved to facilitate this.

9           Q     And just so I'm clear, the surface for the  
10    sidewalk, would there be a gap between the rails for  
11    the sidewalk surface and the roadway surface?

12          A     I believe that's how it's depicted now; but  
13    prior to this meeting, he said that it's common  
14    practice to continue the -- I believe you said the  
15    rubber material --

16          Q     Right, it's a rubberized crossing surface.

17          A     -- between the road and the sidewalk so  
18    that there would not be --

19          Q     So there's not a drop-off --

20          A     -- a drop-off.

21          Q     -- and the surfaces of the road and that's  
22    something the Village would work on with the



1 Railroad?

2 A Yes.

3 MR. HEALEY: If I could have just one minute,  
4 your Honor.

5 JUDGE KIRKLAND-MONTAQUE: Sure.

6 BY MR. HEALEY:

7 Q I do have one other question. I think that  
8 the exhibit that you have in front of you has been  
9 amended to reflect the width of the roadway easement  
10 relative to the actual paved portion of the road; is  
11 that correct?

12 A I believe you guys -- was it from the CN  
13 that asked to show the right of way extended,  
14 essentially, through the Railroad right of way?

15 Q And to the best of your knowledge, the  
16 roadway easement is wide enough to encompass the  
17 entirety of the proposed sidewalk within its  
18 limits --

19 A Yes.

20 Q -- is that correct?

21 MR. HEALEY: I have nothing further. Thank you  
22 for your time.

1 JUDGE KIRKLAND-MONTAQUE: Mr. Powers, do you  
2 have any questions?

3 MR. POWERS: Just a few questions.

4 CROSS-EXAMINATION

5 BY

6 MR. POWERS:

7 Q On your Exhibit No. 1, can you, for the  
8 record, state the width of the proposed sidewalk?

9 A On the exhibit, it shows 5 feet; but as  
10 previously mentioned, it may be modified at the  
11 railroad proper.

12 Q And I think in earlier testimony you stated  
13 that an asphalt path south of the crossing was wider  
14 to accommodate both pedestrians and bicyclists. Is  
15 there a reason why this width was chosen --

16 A I wasn't involved in the Citizens Park  
17 Project, but it was done back in 2005.

18 Q Okay. What is the speed limit on Lake  
19 Zurich Road?

20 A 25 miles per hour.

21 Q 25 miles an hour?

22 Do you have any idea of what the train

1 volume is existing and are there proposals to  
2 increase that?

3 A I think that would be a better question for  
4 the CN.

5 Q Okay. Was there any consideration for any  
6 type of warning devices, such as active pedestrian  
7 warning devices, made by the Village for the proposed  
8 bike path?

9 A We originally looked into years ago for the  
10 Grade Protection Crossing Fund and I believe that was  
11 the conversation with you that I had several years  
12 ago and we've also heard from various sources that  
13 the ICC does not -- let me see if I can phrase this  
14 correctly -- an addition of pedestrian gates does --  
15 that has a -- I'm trying to think of my terms here --  
16 it does not increase pedestrian safety. So,  
17 therefore, it's not required for a cross -- sidewalk  
18 crossing and -- did I say that right?

19 Q Is it -- okay. So is it the Village's  
20 desire not to install active warning devices?

21 A Mm-hmm.

22 JUDGE KIRKLAND-MONTAQUE: Could you answer

1 "yes" or "no."

2 THE WITNESS: I'm sorry. Yes, that's correct.

3 MR. POWERS: No further questions.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Bateman, do you  
5 have any?

6 MR. BATEMAN: Yes, a few questions on redirect.

7 Thank you, your Honor.

8 REDIRECT EXAMINATION

9 BY

10 MR. BATEMAN:

11 Q Mr. Monico, the Village actually looked at  
12 the ICC guidelines for pedestrian and at-grade  
13 crossing, did it not?

14 A Yes.

15 Q As well -- and, basically, those guidelines  
16 indicate that it's -- where there are vehicular gates  
17 and signals and flashing lights in close proximity,  
18 generally, it's left up to the Municipality as to  
19 whether or not pedestrian gates are appropriate; is  
20 that correct?

21 A Yes.

22 Q And in this particular case, as you

1 previously described, the existing safety equipment  
2 at the road at-grade crossing, there are crossbuck  
3 signs, flashing lights, audible signals and vehicular  
4 gates that would be in very close proximity to the --  
5 to the proposed crosswalk at-grade crossing?

6 A Yes, that's correct.

7 Q And in addition, the Village proposes, as  
8 Mr. Healey elicited in his direct --  
9 cross-examination, that the Village is proposing a --  
10 stop signs with Look for Train signs added to that?

11 A Mm-hmm.

12 Q Correct?

13 A Yes, that's correct.

14 Q And in your opinion, will that -- given the  
15 existing conditions there, the sight lines and the  
16 typical usage of -- that you expect for this at-grade  
17 crossing be a safe protection of this crosswalk?

18 A Yes, I believe those would be adequate  
19 protection.

20 Q And based upon your investigation of it, it  
21 does not appear that safety would be increased by the  
22 addition of the pedestrian gates, does it?

1           A     That's correct.

2           MR. BATEMAN: I have no further questions.

3           MR. HEALEY: A follow-up on the warning

4 question, if I may, your Honor.

5           JUDGE KIRKLAND-MONTAQUE: You may.

6                     RECROSS-EXAMINATION

7                     BY

8           MR. HEALEY:

9           Q     Mr. Monico, the crossing at issue is

10 currently -- currently exists within the limits of a

11 Quiet Zone; is that correct?

12          A     Yeah.

13          Q     And a Quiet Zone means that the Railroad

14 does not operate the standard horn sequence upon

15 approach of the grade crossing; is that correct?

16          A     That's correct.

17          MR. HEALEY: Thank you. Nothing further.

18          JUDGE KIRKLAND-MONTAQUE: Okay.

19          MR. BATEMAN: I have no further questions.

20          JUDGE KIRKLAND-MONTAQUE: Okay. You may be

21 excused, Mr. Monico.

22          THE WITNESS: Thank you.

1           MR. BATEMAN: The Village would like to call  
2   Leo Morand of Gewalt Hamilton.

3           LEO MORAND,  
4   called as a witness herein, having been previously  
5   duly sworn, was examined and testified as follows:

6           DIRECT EXAMINATION

7           BY

8           MR. BATEMAN:

9           Q   Mr. Morand, you've been sworn in; right?

10          A   Yes.

11          Q   Would you please state your name for the  
12   record and in doing so, spell your last name.

13          A   Leo Morand, M-o-r-a-n-d.

14          Q   And what's your business or occupation?

15          A   I'm a civil engineer.

16          Q   And how long have you been so employed?

17          A   For the majority of the past eight years.

18          Q   And with -- and who are you employed by?

19          A   Gewalt Hamilton & Associates.

20          Q   And would you describe the nature of your  
21   firm and the business it conducts.

22          A   We're a general, civil, municipal and

1       transportation engineering firm.

2               Q     And do you represent a number of  
3       municipalities?

4               A     Our firm does, yes.

5               Q     And other public institutions?

6               A     Yes.

7               Q     With regard to your background as an  
8       engineer, could you share your -- both your  
9       educational experiences and your professional  
10      experiences in a general way with us.

11              A     Sure. I'm a 2002 graduate of Rose-Hulman  
12      Institute of Technology with a Bachelor of Science in  
13      civil engineering. I obtained my professional  
14      engineering license in 2006 within the State of  
15      Illinois and for the majority of those eight years, I  
16      have been practicing general, municipal, civil and  
17      transportation engineering.

18              Q     Are you familiar with the exhibits that  
19      we've marked and filed with the Commission?

20              A     Yes. Primarily with Exhibit 1.

21              Q     I'm going to refer your attention to what's  
22      been marked Exhibit 1 as last revised November 2nd,



1       2010, and I will refer to that as Amended Exhibit 1.  
2       Is that the document you have in front of you?  
3           A     Yes.  
4           Q     And do you recognize that document?  
5           A     I do.  
6           Q     And did you prepare that document?  
7           A     I did.  
8           Q     And would you describe -- is that a true  
9       and accurate copy of the document you prepared?  
10          A     Yes, it is.  
11          Q     And would you describe for purposes of this  
12       hearing the nature of the revision that you made on  
13       or about November 2nd, 2010, to the document?  
14          A     The revision we made was to extend the Lake  
15       Zurich Road right of way through the Railroad right  
16       of way and to confirm that the improvements -- the  
17       proposed improvements were all within the right of  
18       way of Lake Zurich Road.  
19          Q     Could you describe in a general way what  
20       the proposed improvements are as depicted on the  
21       Amended Exhibit 1?  
22          A     In general, what you have is a --

1     basically, a gap in the sidewalk or path connecting  
2     the north to the south.  So what we are proposing to  
3     do is make that connection of the gap between the  
4     existing path system on Citizens Park and the  
5     dead-end sidewalk on the north side of the railroad  
6     track right of way.

7            Q     Now, as a matter of -- by way of  
8     background, Mr. Morand, you were also the design  
9     engineer for Gewalt Hamilton in designing much of the  
10    improvements for -- many of the improvements for  
11    Citizens Park; is that correct?

12           A     Yes.  I was one of the design engineers  
13    of -- a few of us at my firm who completed that  
14    project.

15           Q     And does, in fact, the trail and pathway  
16    system through Citizens Park now connect to Lake  
17    County Forest Preserve District Cuba Marsh trails?

18           A     Yes.  There is an existing connec- --  
19    pedestrian bridge connection just off of this exhibit  
20    to the northeast.

21           Q     And does that -- the trail system of  
22    Citizens Park basically lead to the public sidewalk

1     within the Lake Zurich Road right of way immediately  
2     south of the proposed crosswalk grade crossing?

3           A     Yes.

4           Q     Could you describe the existing conditions  
5     at the Lake Zurich Road at-grade crossing?

6           A     Sure.  You have an uncurved section through  
7     the Railroad right of way.  It is less than a 24-foot  
8     width from edge to edge of pavement, which is  
9     somewhat narrower than the Village is used to in  
10    other portion areas of the community.  There is no  
11    existing sidewalk through the Railroad right of way.  
12    So pedestrians, when they want to cross the Railroad  
13    right of way, either walk in the gravel and grassy  
14    area of the right of way or they go onto the existing  
15    pavement, which is Lake Zurich Road.

16          Q     And, basically, the sidewalk -- the Village  
17    sidewalk that's on the east side of Lake Zurich Road  
18    north of the EJ&E right of way ends before the EJ&E  
19    right of way, does it not?

20          A     Correct.

21          Q     And so based on your observations and work  
22    in the area, what typically do pedestrians do when

1     they're walking south on the sidewalk along the east  
2     side of Lake Zurich Road towards this -- the existing  
3     road grade crossing?

4           A     As has been described to me by Village  
5     staff, they've observed pedestrians basically when  
6     they're coming from the north side of Lake Zurich  
7     Road and they cross over the Elm Road right of way,  
8     they notice pedestrians going into the Lake Zurich  
9     Road pavement and then walking along the edge of the  
10    pavement to get to Citizens Park.

11          Q     And do actually -- for those pedestrians  
12    who enter the Lake Zurich Road onto the Lake Zurich  
13    Road pavement to traverse the road at-grade crossing,  
14    they actually have to go considerably out into the  
15    lane -- the pavement area intended for vehicular  
16    traffic in order to get sufficiently out into the  
17    intersection to cross the rubberized grade crossing  
18    proper, do they not?

19          A     Yeah, they have to definitely go into the  
20    roadway pavement to make that crossing.

21          Q     Could you describe the existing safety  
22    equipment that's at the road grade crossing?

1           A     Sure.  You have the crossbucks, both on the  
2     northbound and southbound portions of the Lake Zurich  
3     Road, as well as active gates with an actual gate, a  
4     flasher and a bell on both of the arms -- or both of  
5     the crossings.

6           Q     And will those -- will that existing safety  
7     equipment be in close proximity to the proposed route  
8     of the crosswalk?

9           A     Yes.

10          Q     And in your opinion, is the existence of  
11     that existing safety equipment augmented by the  
12     signage you've proposed sufficient to make this a  
13     safe pedestrian and multi-use path crossing?

14          A     Yes.

15          Q     Have you looked into whether or not  
16     pedestrian gates would improve this -- the safety at  
17     this crossing?

18          A     I did a little research on this matter.  
19     The ICC had actually done a study re- -- I'm not sure  
20     when they actually did it, but they de- -- the study  
21     was basically to determine if crossing gates or other  
22     kind of active obstructions prevent pedestrians from

1 going within the right of way when the gate is down  
2 and I'm not sure of the exact number, but they said  
3 that a certain percent of people observed those gates  
4 and a certain percent of the people don't. So it's  
5 my opinion that with the active system that's out  
6 there, plus the signage that we're adding, that that  
7 would be sufficient for this crossing.

8 Q And what is the signage that you're  
9 proposing?

10 A We're proposing a stop sign that also has a  
11 Look for Trains text with an arrow on it on both legs  
12 of the sidewalk.

13 Q And Look for Trains is accompanied by an  
14 arrow that it basically is indicating that the person  
15 observing the sign should look in both directions?

16 A Correct.

17 Q And did you consult at all with the Manual  
18 on Uniformed Traffic Control Devices in considering  
19 what type of signage was appropriate for this  
20 proposed crosswalk at-grade crossing?

21 A Briefly we did. The majority of this  
22 design was based upon other approved ICC crossings

1       that we found on their Web site.

2               Q     And there really aren't very specific  
3       recommendations in the Manual on Uniformed Traffic  
4       Control Devices for pedestrian at-grade crossing, are  
5       there not?

6               A     Correct.

7               Q     So this is really, basically, an enhanced  
8       development of that based upon the ICC experiences,  
9       if you will?

10              A     Yes.

11              Q     The -- would the -- would the entirety of  
12       the proposed crosswalk improvement be within the Lake  
13       Zurich Road right of way as extended through the EJ&E  
14       right of way?

15              A     As it is designed today, yes.

16              Q     And you had to make some adjustments when  
17       you drew the right of way lines on Amended Exhibit 1,  
18       you had to make a slight adjustment in the location  
19       of the path to ensure that it was entirely within the  
20       right of way, did you not?

21              A     Correct.

22              Q     And would the signage that is proposed also

1       be within the Lake Zurich Road right of way?

2               A       Yes.

3               Q       And will -- and do you anticipate that the

4       proposed crosswalk at-grade improvement would require

5       any modifications to the existing safety equipment at

6       the -- for the road grade (sic) crossing?

7               A       I don't think so. I don't think it's going

8       to require any modification.

9               MR. HEALEY: Can we have a clarification of

10       what you mean by "safety equipment"? Gates or

11       whatever you are referring to.

12              MR. BATEMAN: Yes.

13       BY MR. BATEMAN:

14              Q       When I say "safety equipment" to you, what

15       are you intending by your answer?

16              A       I am intending to mean the existing gates.

17              Q       The existing gates as well as the crossbuck

18       signs --

19              A       Yes.

20              Q       -- et cetera?

21              A       Yes.

22              Q       Would the pedestrians who are using the



1 proposed crosswalk be able to see and hear the  
2 existing warning devices that would be in operation  
3 for vehicular traffic on Lake Zurich Road?

4 A As they approach the crossing, they would.

5 Q Have you investigated at all the -- to  
6 determine the existing usage of the Lake Zurich Road  
7 right of way as it now exists as to traffic along  
8 Lake Zurich Road?

9 A I believe according to the Illinois  
10 Department of Transportation, they completed a  
11 traffic count in 2006 on the north side of Lake  
12 Zurich Road north of the tracks and I believe their  
13 traffic count was 2,400 vehicles per day.

14 Q Did Gewalt Hamilton -- you or anyone at  
15 Gewalt Hamilton do any investigation as to the  
16 pedestrian -- amount of pedestrian traffic along Lake  
17 Zurich Road?

18 A No.

19 Q Do you have an opinion, Mr. Morand, as to  
20 whether or not the proposed crosswalk at-grade  
21 improvement will support and preserve and increase  
22 public safety?

1           A     It's definitely my opinion that separating  
2     pedestrians from vehicular traffic will be a safety  
3     improvement.

4           Q     And do you have an opinion as to whether or  
5     not it will also be more convenient for the public in  
6     terms of both pedestrians and/or persons with  
7     strollers, people in wheelchairs, people with -- on  
8     bicycles as to whether or not it will be more  
9     convenient for them to negotiate this -- the railroad  
10    tracks if the proposed crosswalk improvement is made?

11          A     I believe it will be more convenient for  
12    pedestrian traffic.

13          Q     And has Gewalt Hamilton & Associates been  
14    engaged not only to testify here and assist in  
15    preparing Amended Exhibit 1, but also to work with  
16    the Railroad in preparing construction plans for this  
17    improvement?

18          A     Yes.

19          MR. BATEMAN:   The Village has no further  
20    questions for Mr. Morand.   At this time, we would  
21    tender his -- him as a witness to Mr. Healey for  
22    cross.

1 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Healey.

2 CROSS-EXAMINATION

3 BY

4 MR. HEALEY:

5 Q Mr. Morand, I just have a few questions.

6 Do you know if the Village has any plans for widening  
7 the existing roadway?

8 A I do not know.

9 Q You testified for us here that separating  
10 pedestrians from vehicles will enhance safety out  
11 there. Would you agree with me then that separating  
12 pedestrians from possible conflicts with trains would  
13 also increase safety?

14 A Yeah. Yes.

15 Q Do you know if the Village has done  
16 anything to study a grade separation to accommodate  
17 pedestrians crossing over the EJ&E right of way?

18 A I do not know.

19 Q To the best of your knowledge, they haven't  
20 looked at that issue?

21 A I have no idea if they have or not.

22 MR. HEALEY: If I may have just a moment, your

1 Honor.

2 We have nothing further and we thank  
3 the witness for his time.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Powers.

5 MR. POWERS: Just a few questions.

6 CROSS-EXAMINATION

7 BY

8 MR. POWERS:

9 Q On your proposed Exhibit 1 in front of you,  
10 do you know what the angle is of the proposed  
11 sidewalk with the rail crossing itself?

12 A I don't. It actually somewhat varies  
13 through there because we were trying to make it as  
14 close to 90 degrees as possible, but I do not have  
15 that specific angle.

16 Q Did you have any guides or references as  
17 far as trying to get it as close to 90 degrees as you  
18 could or was it just something you just designed  
19 yourself or --

20 A We referenced the ASHTO (phonetic) bike  
21 path and pedestrian guidelines where they indicate  
22 that crossing at 90 degrees is a suggested method, so

1 we tried to get it as close to 90 degrees, but we are  
2 limited with the amount of space that we have between  
3 the right of way.

4 Q And on your proposed signs shown on your  
5 Exhibit 1, can you tell us what the color of the sign  
6 is going to be? Is it going to be black and white as  
7 shown or what are the colors going to be?

8 A The stop sign would be a standard red and  
9 we did not consider the background color or the color  
10 of the text at this time; but, of course, we would  
11 definitely do that once we get into the final  
12 engineering.

13 MR. POWERS: No further questions.

14 JUDGE KIRKLAND-MONTAQUE: Mr. Morand, do you  
15 know the average daily traffic count for that road?

16 THE WITNESS: 2,400 vehicles.

17 JUDGE KIRKLAND-MONTAQUE: A day?

18 THE WITNESS: Yes.

19 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Batemen,  
20 do you have any follow-up?

21 MR. BATEMAN: No, we do not, your Honor.

22 JUDGE KIRKLAND-MONTAQUE: Okay. All right.

1     You may be excused, Mr. Morand.

2                     Let me find out if the Village has

3     anything else.

4             MR. BATEMAN:   We do not, your Honor.

5             JUDGE KIRKLAND-MONTAQUE:   Okay.

6                     Mr. Healey, do you have a witness you

7     want to present?

8             MR. HEALEY:   Thank you, your Honor.   We would

9     like to call Mr. Raymond Baker to the stand.

10                    RAYMOND BAKER,

11     called as a witness herein, having been previously

12     duly sworn, was examined and testified as follows:

13                    DIRECT EXAMINATION

14                    BY

15                    MR. HEALEY:

16             Q     Can you please state your name for the

17     record.

18             A     My name is Ramond C. Baker, B-a-k-e-r.

19             Q     And, Mr. Baker, you realize you were sworn

20     earlier and you are still under oath, do you realize

21     that?

22             A     Yes, sir.

1 Q Are you employed?

2 A Yes, sir.

3 Q By whom are you employed?

4 A The Elgin, Joliet & Eastern Railway

5 Company.

6 Q How long have you worked for the Elgin,

7 Joliet & Eastern Railway Company.

8 A 30-plus years.

9 Q Congratulations.

10 What is your current title with the

11 EJ&E?

12 A I'm the senior manager of engineering.

13 Q Very good.

14 How long have you held that position?

15 A Approximately two years.

16 Q What was your title before that?

17 A I was the chief engineer.

18 Q And how long had you had that title with

19 the EJ&E?

20 A Approximately nine years.

21 Q Did that change come about as a result of

22 the acquisition by the Canadian National Railway

1       Company of the EJ&E?

2           A       Yes, it did.

3           Q       Throughout your 30-plus years of employment

4       with the EJ&E, have you worked on engineering issues

5       for the EJ&E for substantially all of that time?

6           A       Yes.

7           Q       Okay.   Very good.

8                   Mr. Baker, are you familiar with the

9       grade crossing at issue today, Lake Zurich Road with

10      the EJ&E's Leafton Subdivision (phonetic)?

11          A       Yes.

12          Q       Can you tell us, please, the number of

13      trains currently using the crossing on average?

14          A       Approximately six to seven trains per day

15      use the crossing today.

16          Q       Okay.   And can you tell us the maximum

17      authorized track speed for that track?

18          A       The maximum authorized track speed is 45

19      miles per hour.

20          Q       Does the Railroad have any plans for

21      increasing the number of trains through the crossing?

22          A       Yes.



1           Q     Are you familiar with what the estimates  
2     are for the projected increased number of trains  
3     through that segment of track?

4           A     Yes.

5           Q     Can you tell us what those are, please?

6           A     Approximately 12 to 18.

7           Q     Okay.   Very good.

8                     We heard a brief bit of testimony  
9     earlier about a discussion that was had prior to the  
10    commencement of the hearing regarding proposals for  
11    the width of the sidewalk presently.   Do you have an  
12    opinion, based on your 30 years of railroad  
13    experience, as to an appropriate width for the  
14    sidewalk at this location?

15          A     Yes.   Previously, with most sidewalk  
16    applications we asked that the grade crossing highway  
17    surface be extended through the proposed walkway to a  
18    point beyond it to create a shoulder and not allow a  
19    gap between the walkway and the shoulder of the road.  
20    Being that the elevation of the rail is approximately  
21    6 and a half to 7 inches higher than the grade  
22    crossing surfaces, leaving a gap on either side and

1 not allowing for a shoulder for the pedestrians  
2 creates a safety issue; and, secondly, we want no  
3 gaps between the highway crossing and the ped  
4 crossing to collect debris and other materials.

5 Q And that is something, although it's not  
6 currently planned, you would work with the Village to  
7 accommodate that as a part of the sidewalk if, in  
8 fact, it's ordered to be installed?

9 A Yes.

10 Q Relative to the 5-foot width of the  
11 sidewalk on the plans, do you have an opinion as to  
12 whether that's appropriate or it should be widened?

13 A Most of the time when we see walkways  
14 through the Railroad right of way that are multi-use,  
15 we normally see a 10-foot wide width.

16 Q And can you tell us the reason for that?

17 A So that if there's two users using the path  
18 simultaneously, such as a bike or a pedestrian, that  
19 they have room to pass simultaneously.

20 Q Is there any other testimony that you  
21 believer would be helpful to the judge in deciding  
22 the outcome of this docket?

1           A     No.

2           MR. HEALEY:   Very good.   All right.   Thank you  
3   for your time and I tender the witness.

4                   CROSS-EXAMINATION

5                   BY

6                   MR. BATEMAN:

7           Q     Mr. Baker, typically when the -- what I'll  
8   call the rubberized surface of the road grade  
9   crossing and the surface of the ped crossing is  
10   extended so there is no gap, typically the -- does  
11   the Railroad have kind of a formula approach that  
12   they use to decide -- is that cost shared?   Is it  
13   usually the local agency's cost?   How is it generally  
14   addressed in your experience?

15          A     Normally the moving party who is requesting  
16   the improvement would cover the -- all the costs for  
17   the improvements required for that application.   So  
18   in this particular application, if there were some  
19   changes needed to the existing highway crossing  
20   surface to accommodate the new pedway so that it  
21   would be a contiguous surface to the end of the  
22   pathway so that there would be an appropriate

1     shoulder for the pedway on the Railroad right of way,  
2     then that would all be covered and bore by the moving  
3     party.

4           Q     Okay.  And that, in this case -- the  
5     Village being the moving party here is the  
6     petitioner?

7           A     That is correct.

8           Q     And, obviously, you've had experience and  
9     found that the safest approach is to have no gaps  
10    between the vehicular crossing and the ped crossing;  
11    is that correct?

12          A     For an at-grade pedestrian crossing, the  
13    safest is not to have any gaps for the public to  
14    slide into.

15          MR. BATEMAN:  And for the Village's part we  
16    concur and certainly want to benefit from your  
17    experience.  Thank you, sir.

18          THE WITNESS:  You're welcome.

19          MR. BATEMAN:  I have no further questions.

20          JUDGE KIRKLAND-MONTAQUE:  Mr. Powers?

21          MR. POWERS:  Just two questions.

22

1 CROSS-EXAMINATION

2 BY

3 MR. POWERS:

4 Q You testified that the train increase would  
5 be 12 to 18 trains per day; is that correct?

6 A That's correct.

7 Q And what is the speed on that 12 to 18? Is  
8 it going to remain at maximum speed? Is it going to  
9 remain at 45?

10 A At this time, I have no knowledge that it's  
11 going to be anything other than 45.

12 Q Are there any proposals for a double track  
13 through this area?

14 A All the Railroad is -- the right of way is  
15 of sufficient width to add multiple tracks. At this  
16 particular time, there is no plan to add a second  
17 track at this moment in time; but the Railroad is  
18 designed and it has a right of way width sufficient  
19 for three or more.

20 MR. POWERS: No further questions.

21 JUDGE KIRKLAND-MONTAQUE: I have one, if you  
22 know the answer.

1                   Based on the diagram there, would a  
2   10-foot path fit within the right of way of the  
3   Village -- of the road?

4           THE WITNESS:   I would have to check, but it  
5   would appear it would.

6           JUDGE KIRKLAND-MONTAQUE:   Okay.   Maybe someone  
7   from the Village can answer that.

8           THE WITNESS:   That would be terrific.

9           JUDGE KIRKLAND-MONTAQUE:   Thank you.

10                   Anything further for this witness?

11          MR. HEALEY:   I have nothing further and thank  
12   him for his time.

13          MR. BATEMAN:   Your Honor, should I concur with  
14   my witnesses and see if they have an idea of the  
15   10-foot width?

16          JUDGE KIRKLAND-MONTAQUE:   You may be excused.

17          THE WITNESS:   Thank you very much.

18          MR. BATEMAN:   We do not think that a 10-foot  
19   path would fit, your Honor.

20          JUDGE KIRKLAND-MONTAQUE:   You don't think it  
21   would fit?

22          MR. BATEMAN:   We do not think a 10-foot path

1 would fit. Should we re-call Mr. Morand?

2 JUDGE KIRKLAND-MONTAQUE: Could we, please.

3 We'll give you a second.

4 MR. BATEMAN: Your Honor, the Village would

5 re-call briefly Mr. Morand.

6 JUDGE KIRKLAND-MONTAQUE: Okay.

7 RECALLED REDIRECT EXAMINATION

8 BY

9 MR. BATEMAN:

10 Q Mr. Morand, you're aware of the -- her

11 Honor's inquiry relative to whether or not it would

12 be possible for the Village to construct a 10-foot

13 wide path through this area as its proposed crosswalk

14 at-grade crossing?

15 A With the existing conditions, I don't think

16 it would be feasible to construct a 10-foot sidewalk

17 approaching the railroad on either side because of

18 the existing obstructions, like, the -- for instance,

19 you have a railroad gate which is right there and you

20 cannot get enough distance between the existing right

21 of way and that gate to provide 10 feet.

22 Q There would, however -- based on your

1 discussions with Mr. Baker, there would -- there  
2 would be a -- the crossing surface for the crosswalk  
3 would actually -- when the gap is filled in between  
4 the vehicular crossing surface and the pedestrian  
5 crossing surface, there would actually be 10 feet of  
6 width of rubberized surface that crosses the  
7 tracks --

8 A Mm-hmm.

9 Q -- would there not?

10 A Yeah.

11 May I draw on this?

12 Q Go ahead.

13 A Okay. I believe that what it would end up  
14 being is that the existing rubberized and apron for  
15 the existing Lake Zurich Road crosswalk would be  
16 extended out in this nature right here so that the  
17 entire width from the right of way to the edge of the  
18 pavement would be an existing continuous surface and  
19 the sidewalk would just match into that at some  
20 point.

21 JUDGE KIRKLAND-MONTAQUE: Okay. So the  
22 crossing -- the pedestrian crossing could meet the



1 10-foot requirement that is proposed or suggested by  
2 the Railroad?

3 THE WITNESS: Yes. The actual crossing over  
4 the railroad could be, in fact, I think larger than  
5 10 feet. Let me scale it off. I believe we have  
6 approximately 12 or 13 feet from the edge of the  
7 pavement to the right of way.

8 BY MR. BATEMAN:

9 Q And that would give the designers the  
10 ability to get as close to a right angle -- or as  
11 close to a 90-degree crossing of the tracks with the  
12 sidewalk as possible; is that also correct?

13 A Yes.

14 Q And then where the Village's improved  
15 surface for the sidewalk meets the rubberized  
16 surface, there would be shoulders, which would taper  
17 so that there wouldn't be any risk of pedestrians  
18 falling off the Village's path as they approach the  
19 rubberized surface for the track crossing; is that  
20 correct?

21 A Yeah, correct. The sidewalk would match  
22 elevation with the proposed improvements for the

1 tracks themselves and then outside of that area would  
2 be filled in with stone or any other kind of fill or  
3 shoulder material so that there's no 6- or 7-inch  
4 drop-off.

5 MR. BATEMAN: Any further questions we might  
6 pose to the witness, your Honor?

7 JUDGE KIRKLAND-MONTAQUE: No, I think that's it  
8 for -- that answered my question. Thank you.

9 MR. BATEMAN: Thank you, Mr. Morand.

10 JUDGE KIRKLAND-MONTAQUE: Mr. Healey, did you  
11 have any?

12 MR. HEALEY: I don't think we have anything  
13 further for the witness.

14 JUDGE KIRKLAND-MONTAQUE: Okay. I have a  
15 question then for Mr. Baker and you can stay there.

16 THE WITNESS: Thank you.

17 JUDGE KIRKLAND-MONTAQUE: Would extending the  
18 pedestrian crossing over the railroad tracks alone be  
19 sufficient from the Railroad's point of view in terms  
20 of widening of the 10-foot crossing or path, whatever  
21 that --

22 THE WITNESS: That would address the Railroad's

1     issue that the 5-foot path. The way it was presently  
2     designed would allow for gaps on both sides of the  
3     crossing to allow for the public to fall into those  
4     gaps. By having the crossing contiguous with the  
5     existing roadway surface to the edge of it, that will  
6     allow for us to match up to the 5-foot pathway for  
7     the -- that's proposed by the Village. All we would  
8     ask is that the rubber surfaces designed to be held  
9     in place by a bituminous asphalt material. So for  
10    the width of our road crossing, however the  
11    improvement was, we would have that area of  
12    bituminous -- tapered back, as suggested by their  
13    engineer, and then it would be satisfactory for the  
14    Railroad.

15           JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

16           THE WITNESS: You're welcome.

17           JUDGE KIRKLAND-MONTAQUE: Mr. Powers, at the  
18    end of these hearings, I normally ask Staff their  
19    view on the proposal of the petition. I have a  
20    question for you, Mr. Powers.

21                   I know you kind of wear a double hat  
22    here as a representative from Staff -- Commission

1     Staff; but with regard to active warning devices,  
2     meaning, like a gate, a pedestrian gate for this  
3     proposal, is that something that the Commission would  
4     request -- or suggest under these circumstances or  
5     can you give me some insight there on the active  
6     railroad -- active gate for this type of crossing?

7           MR. POWERS:   Well, based on what was referenced  
8     earlier in our -- that's on our Web site, there was a  
9     study, I think that year was 2004, that basically was  
10    described as being neutral on the issue.   We may, in  
11    future endeavors, you know, revisit that, especially  
12    in commuter areas where there's commuter trains.   So  
13    this not being a commuter area, Staff believes that  
14    this will be an appropriate -- since it has been done  
15    on this same line improvement.

16           JUDGE KIRKLAND-MONTAQUE:   Okay.   I'm just  
17    curious.   And if you -- also, Mr. Powers, just give  
18    us Staff's position on this particular petition.

19           MR. POWERS:   Staff has no objections to this  
20    petition.

21           JUDGE KIRKLAND-MONTAQUE:   Okay.   Mr. Healey,  
22    can you give me the Railroad's position on the --

1           MR. HEALEY: I will. Thank you, your Honor.

2                       We're not convinced that the record  
3 establishes a need for a sidewalk at this location;  
4 however, if your Honor concludes that, in fact, a  
5 sidewalk is within the public's interest, we would  
6 ask that -- in fact, that the moving party,  
7 Barrington, be required to pay for any materials  
8 required for the installation of the sidewalk and the  
9 grade crossing surface modification, that they be  
10 required to pay for the installation of those  
11 materials and costs for the maintenance of those  
12 materials as well.

13                      I've also had discussions with  
14 Mr. Bateman, we're fairly well along on a license  
15 agreement to govern the ongoing maintenance issues,  
16 et cetera, and we would ask that the parties be  
17 required to comply with the terms of that license  
18 agreement when signed. I think that's it.

19           JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

20                      Mr. Bateman, we've heard testimony  
21 regarding the Village's -- the Village is in  
22 agreement for paying for the installation. You just

1     heard the Railroad's statement. Does the Village  
2     have any opposition or objection to anything that  
3     Mr. Healey has stated?

4             MR. BATEMAN: No, we don't. I think the one  
5     area that we'd have to take a look at is the  
6     maintenance issue. I think that's been really -- I  
7     don't think there's a -- it's based on our review of  
8     other pedestrian grade crossing cases. I'm not sure  
9     that there's been a consistent outcome relative to  
10    that cost, and so that's one issue we'd have to take  
11    a look at; but I know we're fully prepared to  
12    reimburse the Village -- reimburse the Railroad for  
13    all their engineering and construction costs and we  
14    would certainly be prepared to observe and comply  
15    with both the construction agreements we may execute  
16    as well as a license agreement.

17            MR. HEALEY: And that's an excellent point.

18                    We will need a construction agreement  
19    to go along here and I forgot to mention that, I  
20    think.

21            MR. BATEMAN: Yes.

22            MR. HEALEY: Thank you.

1 JUDGE KIRKLAND-MONTAQUE: All right. Is there  
2 anything else we need to consider?

3 MR. BATEMAN: I don't believe so, your Honor.

4 One small point is you granted us  
5 leave to file our amended petition. We actually had  
6 attached an original to our motion, which was filed.  
7 May that be deemed filed today or should I file an  
8 original which I do -- and am prepared to do.

9 JUDGE KIRKLAND-MONTAQUE: Oh, no, the one you  
10 have on file that is deemed admitted or --

11 MR. BATEMAN: Deemed filed.

12 JUDGE KIRKLAND-MONTAQUE: Yes, it is deemed  
13 filed. It's already in the record, so you don't need  
14 to refile it.

15 MR. HEALEY: Your Honor, if I might.

16 I don't think the amended petition  
17 changes any of the responses we gave to the original  
18 petition, but if I can have seven days leave to file  
19 a response to the amended petition.

20 JUDGE KIRKLAND-MONTAQUE: That's fine.

21 MR. HEALEY: Okay. I'll do that.

22 JUDGE KIRKLAND-MONTAQUE: And so on that note,

1 I will mark this heard and taken.  
2 (Heard and taken.)  
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